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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

CODE OF FAIR COMPETITION SERIES—CODE No. 8

CODE OF FAIR COMPETITION
FOR THE
COMMERCIAL AND BREEDER
HATCHERY INDUSTRY

Approved by the President of the United States
December 27, 1933

1. Executive Order
2. Letter of transmittal (Secretary of Agriculture)
3. Letter of transmittal (Administrator, NRA)
4. Code



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1934

EXECUTIVE ORDER

APPROVAL OF CODE OF FAIR COMPETITION FOR THE COMMERCIAL AND BREEDER HATCHERY INDUSTRY

Whereas, the Secretary of Agriculture and the National Recovery Administrator having submitted for my approval a Code of Fair Competition for the Commercial and Breeder Hatchery Industry and having rendered their separate reports and recommendations and findings on the provisions of said Code;

Now, therefore, I, FRANKLIN D. ROOSEVELT, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby find that:

1. An application has been duly made, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Commercial and Breeder Hatchery Industry; and,

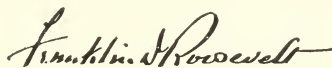
2. Due notice and opportunity for hearings to interested parties has been given pursuant to the provisions of the Act and regulations thereunder; and,

3. Hearings have been held upon said Code, pursuant to such notice and pursuant to the pertinent provisions of the Act and regulations thereunder; and,

4. Said Code of Fair Competition constitutes a Code of Fair Competition, as contemplated by the Act and complies in all respects with the pertinent provisions of the Act, including clauses (1) and (2) of subsection (a) of Section 3 of Title I of the Act; and,

5. It appears, after due consideration, that said Code of Fair Competition will tend to effectuate the policy of Congress as declared in Section 1 of Title I of the Act.

Now, therefore, I, FRANKLIN D. ROOSEVELT, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby approve said Code of Fair Competition for the Commercial and Breeder Hatchery Industry.



President of the United States.

THE WHITE HOUSE,
December 27, 1933.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

LETTER OF TRANSMITTAL

DECEMBER 26, 1933.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: I have the honor to submit the following:

1. There is transmitted herewith a Code of Fair Competition for the Commercial and Breeder Hatchery Industry, which I recommend for your approval and which the National Recovery Administrator recommends for your approval with reference to the labor provisions thereof. There accompanies the Code the report of the Administrator of the Agricultural Adjustment Act, the report of the Administrator of Title I of the National Industrial Recovery Act, and a true, correct, and complete stenographic report of all the evidence introduced at a public hearing on said Code, held pursuant to Section 3 (a), Title I of the National Industrial Recovery Act.

2. By virtue of Executive Order No. 6162, of June 26, 1933, as supplemented by Executive Order No. 6207, of July 21, 1933, and Executive Order No. 6345, of October 20, 1933, which, pursuant to Title I of the National Industrial Recovery Act of June 16, 1933, (Public, No. 67, 73d Congress) delegated to me, as Secretary of Agriculture, certain of the powers vested in the President of the United States by the aforesaid Act, and after considering the aforesaid Code of Fair Competition and a true, correct, and complete stenographic report of all evidence introduced at such public hearing, and being fully advised in the premises, I make the following findings:

1. That an application has been duly made by the International Baby Chick Association, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for the approval of the President, of the Code of Fair Competition for the Commercial and Breeder Hatchery Industry. Said International Baby Chick Association and the advisory body provided for in such Code, are truly representative of the industry, and no inequitable restrictions on admission to membership are imposed by the International Baby Chick Association.

2. That the Commercial and Breeder Hatchery Industry, covered by such Code, is included within the trades, industries, or subdivisions thereof enumerated in Executive Order No. 6182 of June 26, 1933, as supplemented by Executive Order No. 6207 of July 21, 1933, and Executive Order No. 6345 of October 20, 1933.

3. That the provisions of the Code establishing standards of fair competition (a) are regulations of interstate and foreign commerce and (b) are reasonable.

4. That the Code is not designed to promote monopolies or to eliminate or oppress small enterprises, and will not operate to discriminate against them, and will not permit monopolies or monopolistic practices.

5. That the Code will not prevent an individual from pursuing the vocation of manual labor and selling or trading the products thereof nor prevent anyone from marketing or trading the produce of his farm.

6. That due notice and opportunity for hearing, in connection with the aforesaid Code, has been afforded interested parties, in accordance with Title I of the National Industrial Recovery Act and applicable regulations issued thereunder.

7. That said Code will tend to effectuate the declared policy of Title I of the National Industrial Recovery Act as set forth in Section 1 of said Act in that the terms and provisions of such Code tend to: (a) Remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; (b) to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups; (c) to eliminate unfair competitive practices; (d) to promote the fullest possible utilization of the present productive capacity of industries; (e) to avoid undue restriction of production (except as may be temporarily required); (f) to increase the consumption of industrial and agricultural products by increasing purchasing power; and (g) otherwise to rehabilitate industry and to conserve natural resources.

8. That said Code, when approved by the President, will constitute a Code of Fair Competition for the Commercial and Breeder Hatchery Industry within the meaning of Section 3 (a) of Title I of the National Industrial Recovery Act.

Respectfully,

H. A. WALLACE,
Secretary of Agriculture.

NATIONAL RECOVERY ADMINISTRATION

WASHINGTON, D.C.

DECEMBER 19, 1933.

The PRESIDENT,
White House.

SIR: There is submitted, herewith, for your approval, the "Labor Provisions" of a "Code of Fair Competition for the Commercial and Breeder Hatchery Industry."

The hearing on the Code was held at Washington, D.C., on October 2, 1933, pursuant to Notice, dated September 21, 1933, issued by the Secretary of Agriculture. The Sponsors of the Code for the Industry are J. A. Hannah, President, and Reese V. Hicks, Secretary, of the International Baby Chick Association.

At the formal hearing, Mr. J. A. Kennedy of the Agricultural Adjustment Administration presided, assisted by an Advisory Staff, and the representatives of the National Recovery Administration acknowledge the complete cooperation of these men.

The Industry estimates that the "Labor Provisions" of the Code will employ 3,000 additional people and will increase wages \$1,500,000.00 annually.

This industry hatches and distributes, principally among the farmers and poultrymen of the country, approximately three hundred million baby chicks, baby ducklings and turkey poults.

The objectives and trade practices of the industry strive to effect a scientific and carefully directed program of poultry breeding to improve the egg production, the food value, and the good qualities of the poultry of the country.

This work is done with the assistance and cooperation of various Poultry Associations, and allied interests, the State Universities and Colleges, and the United States Department of Agriculture.

The continuous contribution of this work toward the creation of new wealth is very important.

I find that:

(a) The "Labor Provisions" comply in all respects with the pertinent provisions of Article I of the Act, including, without limitations, Subsection (a) of Section 7 and Subsection (b) of Section 10 thereof; and that

(b) The "Labor Provisions" are not designed to promote monopolies or to eliminate or oppress small enterprises, and will not operate to discriminate against them, and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

(c) The International Baby Chick Association is truly representative of the Commercial and Breeder Hatchery industry and imposes no inequitable restrictions on admission to participate therein.

The "Labor Provisions" have the approval of the Legal Division. Accordingly, I hereby recommend the approval of the "Labor Provisions" of the Code of Fair Competition for the Commercial and Breeder Hatchery Industry.

Respectfully,

A handwritten signature in cursive script, reading "Hugh A. Johnson".

Administrator.

CODE OF FAIR COMPETITION FOR THE COMMERCIAL AND BREEDER HATCHERY INDUSTRY

ARTICLE I

PURPOSES

Whereas, it is the declared policy of Congress as set forth in Section 1 of Title I of the National Industrial Recovery Act:

To remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources;

Now therefore, to effectuate such policy, the following provisions are established as a Code of Fair Competition for the Commercial and Breeder Hatchery Industry, and upon approval by the President, shall be the standards of fair competition for such industry and shall be binding upon every member thereof.

ARTICLE II

DEFINITIONS

As used in this Code:

(a) The term "President" means the President of the United States.

(b) The term "Secretary" means the Secretary of Agriculture of the United States.

(c) The term "National Recovery Administrator" means the duly designated representative of the President to administer such functions and powers under Title I of the National Industrial Recovery Act as are not delegated to the Secretary by Executive Order.

(d) The term "Act" mean Title I of the National Industrial Recovery Act, approved June 16, 1933.

(e) The term "person" means individual, partnership, corporation, association, and any other business unit.

(f) "Industry" or "Commercial and Breeder Hatchery Industry" means and includes each and every individual, partnership, association or corporation engaged in the business of hatching and/or selling on a commercial scale, "chicks" or "started chicks", "baby ducklings" or "turkey poults" hatched for sale. The terms "chicks", "started chicks", "baby ducklings", and "turkey poults" being more specifically defined in Exhibit A.

(g) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

(h) The term "employer" means any person by whom any such employee is compensated or employed.

(i) The term "member of the industry" means any person engaged in the industry, either as an employer or on his own behalf.

(j) The term "State" includes Territory and the District of Columbia.

(k) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to the business of the person in question.

(l) The term "subsidiary" means any person, of or over whom, a member of the industry has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(m) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry, whether by stock ownership or in any other manner.

(n) "Coordinating Committee" means the National Commercial and Breeder Hatchery Coordinating Committee and hereinafter referred to as the "National Coordinating Committee" or "Coordinating Committee."

(o) "Labor Provisions" shall mean provisions relating to the determination and administration of the hours of labor, rates of wages, and other conditions of employment, under the jurisdiction of the National Recovery Administration, in the baby chick industry.

(p) "Outside Salesmen" shall mean any salesman who performs exclusively selling functions and does not deliver.

(q) "Watchman" as used herein includes persons—

1. Whose sole function is watching, or
2. Persons engaged in tasks in addition to watching.

(r) "Incubator Operator" means any person charged with the duty of so regulating the temperature, moisture, manipulation of eggs and other factors of incubator control in such a way as to successfully hatch eggs and care for the needs of newly hatched chicks.

(s) "Service Man" means any person employed mainly in rendering technical service to customers, such as treatment of flocks for disease and regulating feeding and other health and growth factors, but his duties may also include sale and delivery of chicks.

(t) "Deliveryman" means any person employed mainly in delivering baby chicks sold to customers, but his duties may also include the sale of chicks and the collection of hatching eggs.

(u) "Dealer" means one who buys hatchery products for resale and who may hatch 50% or less of hatchery products sold by him.

(v) "Hatchery Operator" means any individual, partnership, firm, or corporation in the business of hatching baby chicks, ducklings, or poults, either for sale or on a custom basis.

(w) "Branch Manager" means the person in charge of a branch hatchery and/or sales station. His duties may include operation of an incubator, but if the major portion of his time is given to such incubator operation he shall be classified as an "incubator operator."

(x) "Commercial Hatchery and Breeder Hatchery" are defined in Exhibit A.

(y) "Hatchery products" means "chicks", "started chicks", "baby ducklings", and "turkey poults."

Definitions of a list of terms commonly used in the industry is attached herewith as Exhibit A and made a part of this Code of Fair Competition.

ARTICLE III

HOURS

SECTION 1. No employee shall work or be permitted to work in excess of forty (40) hours in any one week or eight (8) hours in any one day, with the following exceptions:

(a) Watchmen whose sole function is watching, provided that they shall not work more than fifty-six (56) hours in any week, or watchmen whose duties include tasks other than watching provided they shall not work more than forty-three (43) hours in any one week or more than seven (7) hours in any one day.

(b) Deliverymen, provided they shall not work more than forty-eight (48) hours per week.

(c) Branch managers at branch production or distributing plants established prior to July 1, 1933, provided they shall not work more than forty-eight (48) hours in any week.

SECTION 2. None of the provisions relating to hours of labor shall apply to:

(a) Executive, supervisory, and administrative employees, provided they regularly receive over \$35.00 per week.

(b) Outside salesmen.

(c) Incubator operators and service men, during any three consecutive peak months, provided they receive not less than \$30.00 per week.

(d) Employees when engaged on emergency repair work.

SECTION 3. Reports shall be made monthly to the Code Authority stating the number of hours worked in excess of the maximum for which overtime has been paid, as hereinafter provided for.

ARTICLE IV

WAGES

SECTION 1. No clerical, accounting, or other office employee shall be paid at a rate of less than \$15 per week.

SECTION 2. (a) No watchman whose sole function is watching shall be paid less than \$16 per week.

(b) No watchman whose duties include tasks other than watching shall be paid less than at the rate of thirty-seven and one half ($37\frac{1}{2}$) cents per hour.

SECTION 3. The minimum rate of wages shall be not less than thirty-seven and one half ($37\frac{1}{2}$) cents per hour for all employees who shall be paid by the hour.

SECTION 4. Overtime rate of time and one third shall apply to all hours worked over forty (40) hours in any one week or eight (8)

hours in any one day. This provision shall not apply to employees in Article III, Section 2 (a), (b), and (c).

SECTION 5. It is agreed that this Code guarantees a minimum rate of pay regardless of whether the employee is compensated on the basis of time rate or of piecework.

SECTION 6. The amount of difference existing on July 15, 1933, between wage rates paid various classes of employees then receiving more than this established minimum wage shall not be decreased. Wage rates for occupations other than common labor shall be increased by a sum which shall, at least, maintain the differentials existing on July 15, 1929. Nothing herein shall be used as a device or subterfuge for reducing the wages existing on July 15, 1933, of any employee.

SECTION 7. It is agreed that where male and female employees perform substantially the same duties or do substantially the same work, they shall receive the same rates of pay.

SECTION 8. To effectuate the observance of the "Labor Provisions", each employer shall post in a conspicuous place in his place of business a notice which shall contain the "Labor Provisions" of this Code, and the notice shall give the address of the Regional Coordinating Committee.

ARTICLE V

GENERAL LABOR PROVISIONS

SECTION 1. *Conditions of Employment.*—

(a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization, or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) No employee and no one seeking employment shall be required as a condition of employment to join any company union, or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

(c) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

(d) No person under sixteen (16) years of age shall be employed or permitted to work.

(e) No person under eighteen (18) years of age shall work or be permitted to work at any occupation deemed to be detrimental to health or hazardous. The Code authority for industry shall submit, before January 1, 1934, to the Administrator for approval, the list of such occupations.

(f) Within each State, employers in the industry shall comply with any laws of such states imposing more stringent requirements regulating the age of employees, wages, hours of work, and general working conditions, than are provided herein.

(g) After the effective date of this Code, no employer shall withhold any wages.

SECTION 2. *General.*—

(a) The Administrator of the National Industrial Recovery Act may appoint a representative on each Regional Coordinating Committee and on the National Coordinating Committee.

(b) Nothing herein shall be interpreted as a derogation of the right of the President and/or the Administrator of the National Industrial Recovery Act to administer the "Labor Provisions" or to receive and hear complaints, or appeals from the State and/or National Committees, or to make investigations relating to the observance or nonobservance of this Code.

(c) This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of Subsection (b) of Section 10 of the National Industrial Recovery Act, from time to time, to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

(d) In addition to the information required to be submitted to the Code Authority there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

SECTION 3. *Administration of "Labor Provisions."*—

(a) Within this Industry all "Labor Provisions" are under the jurisdiction of the National Recovery Administration. The National Coordinating Committee designed to supervise the administration of this Code shall represent the industry in the administration and enforcement of the "Labor Provisions", and in addition to the specific powers prescribed by this Code, the National Coordinating Committee shall have all general powers necessary to assist the Administrator of the National Recovery Act in the administration of the "Labor Provisions."

(b) The National Coordinating Committee shall have the following duties and powers to the extent permitted by the Act:

1. To secure reports from the members of the Industry with respect to wages, hours of labor, conditions of employment, and other matters pertinent to the administration of the "Labor Provisions."

2. To hear complaints of violations of the "Labor Provisions" and to make proper investigation thereof. If it shall appear to the administrative committee that there has been a violation of the "Labor Provisions", it shall report the violation to the Administrator or take such action as the Administrator may approve to enforce the provisions of this Act.

3. To make reports and recommendations to the Administrator necessary to effectuate the administration of the "Labor Provisions."

4. The National Coordinating Committee may delegate to Regional Coordinating Committees such authority as, in the judgment of the National Administrative Committee, shall assist in the administration of the "Labor Provisions."

(c) The "Labor Provisions" may be modified on the basis of experience or changes in circumstances, such modification to be based

upon application to the Administrator and such notice and hearing as he shall specify and to become effective on approval of the President.

ARTICLE VI

UNFAIR METHODS OF COMPETITION

The following practices and additional practices so declared by the National Hatchery Coordinating Committee shall be considered misleading, deceptive, and unfair, and are forbidden for all members of the Baby Chick Industry doing business in the United States:

SECTION 1. *Defamation*.—The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade or quality of their goods, with the tendency and capacity to mislead or deceive purchasers or prospective purchasers and the tendency to injuriously affect the business of such competitors.

SECTION 2. *Guaranty*.—Failure to adjust losses where a specified percent of live arrivals has been guaranteed.

SECTION 3. *Distress sales*.—Selling hatchery products below the seller's individual cost of production in a competitor's territory or elsewhere, with the effect of injuring a competitor, or when the effect may be substantially to lessen competition or tend to create a monopoly or to unreasonably restrain trade.

The above clause shall not be interpreted to mean that any member of the industry cannot sell his product to protect his financial condition even if it is below cost, except, however, that notice that chicks are to be sold below cost must be sent to the National Hatchery Coordinating Committee, which shall have an option to buy at such low cost.

SECTION 4. *Advertising*.—

(a) The making or causing or permitting to be made or published any false, untrue, or deceptive statement by way of advertisement or otherwise concerning the grade, quality, quantity, substance, character, nature, origin, size, or preparation of any product of the industry having the tendency and capacity to mislead or deceive purchasers or prospective purchasers.

(b) To offer hatchery products through advertisements so worded as to induce the belief that all such products are of uniformly high quality as to egg production, quick maturity, etc., when, in fact, a portion of the said products are from flocks of inferior quality.

(c) Advertising and selling chicks as being from flocks that have been blood-tested, vaccinated, or otherwise treated for any disease or prevention of disease, when the facts are that only a portion of the flocks of the advertiser have been so treated or tested.

(d) Stating in advertisements or elsewhere that chicks are "guaranteed to live", with the purpose and effect of deceiving purchasers or prospective purchasers into the belief that the said chicks possess extraordinary stamina and other qualities which prevent disease and death.

(e) Publishing testimonials regarding exceptional results from the producer's flocks so misleadingly worded as to create the im-

pression that all of the advertiser's stock may be expected to produce the same results for all buyers of the advertiser's chicks, with the tendency and capacity to mislead or deceive purchasers or prospective purchasers and with the tendency to injuriously affect the business of competitors, is an unfair trade practice.

(f) Falsely to advertise or offer hatchery products for sale at reduced prices on the representation that they are of surplus or distress stocks.

(g) Advertising for sale baby chicks at a very low price when there is available only a grossly inadequate supply at such price, with the tendency and capacity to mislead or deceive purchasers or prospective purchasers and with the tendency to injuriously affect the business of competitors, is an unfair trade practice.

(h) Operating the same plant under two or more different names, selling the same quality or grade of chicks at the same or different prices, and using separate sets of literature.

SECTION 5. *Notification of Customers.*—Failure to notify customer of inability to ship hatchery products on contract date.

SECTION 6. *Rebates.*—Giving secret rebates, secret concessions, and secret allowances of any and all kinds below the published price, provided, that nothing in this Code shall prevent the payment of patronage dividends to bona fide members of any farmers' cooperative organization organized and/or incorporated on the cooperative plan under the laws of any State or of the United States of America.

SECTION 7. *Substitution.*—Substitution of chicks where a hatchery operator advertises special qualities or special merits for his own chicks without securing the consent of the customer prior to shipment.

SECTION 8. *Extras.*—Giving extra chicks beyond the number sold and specified in the order.

SECTION 9. *Misrepresentation.*—(a) Use of the words "hatchery", "chickery", or "poultry farm" in such a way as to create the impression with purchasers that the seller is a producer of chicks, when in fact he is a broker or dealer.

(b) Misrepresenting the breed, grade, or quality of baby chicks sold at auction or otherwise.

(c) The quotation or advertising to the retail trade of prices alleged to be wholesale prices.

(d) Advertising baby chicks at a price and later adding transportation charges without consent of the purchaser.

(e) To obtain fertile eggs from a flock, mated or otherwise subject to a competitor's contract, without such competitor's consent in writing.

(f) Shipping baby chicks on a consignment basis to a fictitious consignee or to any person without a bona fide order.

SECTION 10. *Inducing breach of contract.*—Maliciously inducing or attempting to induce the breach of existing contracts between competitors and their customers by any false or deceptive means whatsoever, or interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring, or embarrassing competitors in their businesses.

SECTION 11. *Premiums.*—Failure to pay farmer producers of hatching eggs a premium over market egg prices commensurate with

the amount of flock improvement and other work required by the hatchery or necessary to comply with this code.

SECTION 12. *Quality*.—Using chicken eggs for hatching, including custom hatching, that weigh less than one and five-sixths ounces each and less than twenty-three ounces average per dozen.

SECTION 13. *Scientific Terminology*.—In the use of the words “accredited”, “certified”, “blood-tested”, “pullorum-tested”, “pullorum-accredited”, “supervised”, etc., or any combination thereof, the name of the State and the Supervising Agency in the State shall precede these words in any advertising medium, and/or publicity material. A label shall be placed on each shipment of chicks, eggs for hatching, and breeding stock, giving the State and the Supervising Agency and a brief description of the method of accrediting, certification, supervision, blood-testing, etc. The mere use of these terms in advertising material and publicity without naming the State and Supervising Agency is prohibited.

ARTICLE VII

REPORTS

SECTION 1. The members of the industry shall severally, from time to time, upon the request of the Secretary (or the Secretary or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information, on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (1) assisting in the furtherance of the powers and duties of the Secretary or the National Recovery Administrator with respect to this code and/or (2) enabling the Secretary or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the act and the purposes of this code will be effectuated, such reports to be verified under oath.

SECTION 2. The members of the industry shall severally permit, for the same purposes and/or to enable the Secretary or the National Recovery Administrator to verify the information furnished on said forms or reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Secretary or the National Recovery Administrator during the usual hours of business.

SECTION 3. The members of the industry shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial condition thereof, and shall see to it that their respective subsidiaries and affiliates keep such records.

The Coordinating Committee shall adopt, subject to the approval of the Secretary, a uniform system of accounting which members of the industry may use, and may, from time to time, suggest for the industry, costs of production of hatchery products to be used by members of the industry in each division specified in Article 8 (1); such suggestions may include one or more grades of hatchery products and may additionally include the following items: Cost of eggs, including cost of flock improvement; cost of labor; operating expenses, repairs, taxes, insurance (other than buildings), depreciation,

rent, automobile expenses, code administration charges, administrative and selling expenses, salaries, advertising, office expenses, and postage. These costs may be published by the committee for the information of the hatchery operators and the general public, but shall not be used to determine whether or not this code has been violated.

SECTION 4. The Coordinating Committee shall establish for the industry a uniform sales invoice, the terms of which will be subject to the approval of the Secretary of Agriculture. This uniform sales invoice shall contain along with other conditions to be recommended from time to time by the Coordinating Committee to the Secretary of Agriculture for his approval the following provisions: breed, grade, and number of chicks, ducklings, or poults sold, date of delivery, price at which sale was made, amount of discount, and delivery charge.

SECTION 5. Each member of the industry shall list with the Coordinating Committee the prices and terms at which he may sell or offer to sell hatchery products. Members of the industry shall not sell at prices other than those listed pursuant to this section. Any person desiring to change his price list shall file a new or amended list with the Coordinating Committee at least twenty-four hours in advance of the time when such change shall be effective.

SECTION 6. All information furnished the Secretary pursuant to this article shall remain confidential in accordance with the applicable General Regulations, Agricultural Adjustment Administration.

ARTICLE VIII

SUPERVISORY BODY

SECTION 1. *Supervisory Committee.*—The National Commercial and Breeder Hatchery Coordinating Committee is hereby established, consisting of 21 members and shall be hereinafter referred to as the National Coordinating Committee or Coordinating Committee. This committee shall be selected immediately upon approval of this code in the following manner and shall be subject to the approval of the Secretary.

(a) The Board of Directors of the International Baby Chick Association shall select sixteen members, that is, two members from each of the ten regions designated below, with the exception of regions five and six.

(b) The Board of Directors of Northeastern Poultry Producers Council shall select four members, i.e., two from each of regions five and six.

(c) The Board of Directors of the American Poultry Association shall select one member.

The following regions are designated, based on hatchery egg capacity:

Region 1: California, Oregon, Washington, Idaho, Nevada, Arizona, Utah, Wyoming, Montana.

Region 2: New Mexico, Texas, Oklahoma, Arkansas, Louisiana.

Region 3: Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Florida.

Region 4: North Dakota, South Dakota, Nebraska, Kansas, Colorado.

Region 5: Maine, Massachusetts, Vermont, New Hampshire, Rhode Island, Connecticut, New York.

Region 6: Delaware, New Jersey, Pennsylvania, District of Columbia, Virginia, Maryland, West Virginia.

Region 7: Ohio.

Region 8: Indiana and Illinois.

Region 9: Iowa and Missouri.

Region 10: Minnesota, Wisconsin, Michigan.

(d) The Secretary may appoint a person as a nonvoting member of this Committee.

(e) The Administrator may, at his option, appoint a representative to the Coordinating Committee.

SECTION 2. *Regional members of the Coordinating Committee.*—Each regional area, as shown in Section 1 of Article VIII, shall be subject to the supervision of the members of the Coordinating Committee located in each of these respective regions. Such committee members shall have the power to organize their respective regions by the appointment of local committees to further effectuate the trade practices and other provisions of this code. Such plans of regional organization shall be subject to the approval of the Secretary of Agriculture.

Specific violations of the terms of this code shall first be reported to the regional members of the Coordinating Committee, who in turn shall be governed by the procedure as given in Section 5 (b), Article VIII.

SECTION 3. *Coordinating Committee rules.*—

1. Each member of the Coordinating Committee shall be entitled to one vote.

2. Any vacancies occurring in the membership of this Committee shall be filled for the unexpired term by the selection of the association or associations entitled to fill such vacancies as designated under Section 1, Subsections (a), (b), (c), Article VIII. Such new members shall be subject to the approval of the Secretary.

3. The Coordinating Committee shall have a managing agent duly elected, by such Committee, and subject to approval of the Secretary; said managing agent shall perform such duties as may be designated by the Committee.

4. In the selection of the Coordinating Committee, a vote cast by mail or by proxy shall have the same force in effect as a vote cast in meeting.

5. The Coordinating Committee shall have as its chairman one of its members duly elected by said Committee.

6. Each member of the initial Coordinating Committee shall serve until September 1, 1934, or until a successor shall be selected and shall qualify. A member of said Committee who for good and sufficient reason wishes to retire from the Coordinating Committee shall submit his resignation in writing to the Chairman of the Committee. A majority of the said Committee, subject to the approval of the Secretary and for good and sufficient reason, may request a member of said Committee to resign from the Coordinating Committee. Vacancies thus created on said Committee may be filled in the manner prescribed under Section 3, Subsection (2), Article VIII.

7. On or before September 1, 1934, each of the associations mentioned in Section 1, Subsections (a), (b), (c), Article VIII, shall select their respective member or members of the Coordinating Committee, subject to the approval of the Secretary for the ensuing year or until their successors are selected and shall qualify.

8. The said Committee is authorized and instructed to cooperate with other and similar code committees in related industries, in matters of mutual interest or related problems which affect the plans of carrying out the provisions of this Code.

9. The Coordinating Committee shall work out in cooperation with hatchery and breeder organizations, the U.S. Department of Agriculture and other interested agencies, and report to the Secretary of Agriculture for his approval at the earliest possible date and in any event within the next year uniform terms, rules, and regulations for flock improvement.

SECTION 4. *Rules, regulations, and decisions.*—The Coordinating Committee may issue rules, regulations, and decisions prescribing the procedure for the administration of the terms of this code, subject in each instance to the approval of the Secretary and/or the Administrator.

SECTION 5. *Powers and duties of committee.*

(a) The Coordinating Committee shall be charged with the investigation, reporting, and recommendation concerning any provisions of this Code, and/or violation thereof, and may be further charged with other powers and duties as may be lawfully delegated to it by the Secretary and/or Administrator.

(b) Any member of the industry may report specific violations of the terms of this code to the Coordinating Committee. The Committee may require a report from such alleged violator, and may, in its discretion direct any accredited firm of Certified Public Accountants to investigate the alleged violations. The Committee may then, in its discretion, on the basis of information so obtained, warn the alleged violators and forward to the Secretary of Agriculture findings of fact, with recommendations thereon. Information so obtained, if of a confidential nature, shall not be disclosed except to the Secretary of Agriculture, and shall be kept confidential by him, except where it may be necessary to disclose it in the prosecution of an offender, or on demand by a court, or a committee of the Senate or House of Representatives.

(c) The Secretary and/or Administrator may at any time investigate the Coordinating Committee or any member thereof, or any member of the Industry and the said Committee or member thereof, or member of the Industry shall furnish to the Secretary and/or Administrator any and all information the Secretary and/or Administrator may request in order to facilitate the investigation.

(d) The Coordinating Committee shall have power to secure options on the purchase of chicks which have to be sold below cost of production in order to protect the financial condition of a member or members of the Industry as provided in Section 3, Article VI.

(e) The Coordinating Committee is authorized to incur such expense and make expenditures as may be necessary in the performance of its functions as outlined in this Code. Every member of the industry shall be subject to his equitable pro-rata share of the cost of administering this Code not to exceed 15 cents per year per

thousand actual hatching capacity, such assessment to be collected by the Coordinating Committee. Additional assessment in any calendar year may be made, provided application to the Secretary is submitted in writing, setting out the reasons therefor and subject to his disapproval.

ARTICLE IX

DURATION OF IMMUNITIES

The benefits, privileges and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

ARTICLE X

MONOPOLIES

As provided in Section 3 (a) of Title I of the National Industrial Recovery Act, nothing in this Code shall be construed or administered in such manner as to promote monopolies or to eliminate or oppress small enterprises, and no provision herein contained shall be construed or administered in such a manner as to discriminate against small enterprises.

ARTICLE XI

AGENTS

The Secretary and the National Recovery Administrator may each by designation in writing name any person, including any officer or employee of the Government, to act as his agent in connection with his respective powers and duties under any of the provisions of this Code.

ARTICLE XII

MODIFICATION

SECTION 1. This code and all the provisions thereof are expressly made subject to the right of the President in accordance with the provisions of Section 10 (b) of the Act from time to time, to cancel or modify any order, approval, license, rule, or regulation issued under the Act, and specifically but without limitation, to the right of the President to cancel or modify his approval of the code or any conditions imposed by him upon his approval thereof.

SECTION 2. This code may from time to time be modified upon the recommendation of the Coordinating Committee after opportunity for hearing to interested parties in such manner as the Secretary may prescribe. Such modification or supplement shall become effective upon approval by the President.

ARTICLE XIII

EFFECTIVE TIME

This Code shall become effective on the fifth day after its approval by the President.

EXHIBIT A

DEFINITIONS OF TERMINOLOGY

All advertising and sale of hatching eggs, baby chicks, and started chicks, baby ducklings, and turkey poults shall be governed by the following definition of terminology:

1. *Accredited flock*.—A flock selected, mated, and kept under the rules and specifications of an official State agency and subject to its supervision and inspection. This term is to be used only when all eggs, chicks, or fowls sold for breeding purposes are under the supervision of an official State agency set up in the State for carrying on accreditation work.

2. *Accredited hatchery*.—One operating under the rules of an official state agency and subject to its supervision and inspection. The use of this term is to be limited to those hatcheries having all stock under the supervision of an official state agency.

3. *Accredited chicks*.—Chicks hatched from eggs produced by an accredited flock hatched in an accredited hatchery.

4. *Supervised flock*.—A flock selected, mated, and kept under the rules and specifications of an official State agency and subject to its supervision and inspection. This term is to be used only when all eggs, chicks, or fowls sold for breeding purposes are under the supervision of an official state agency set up in the State for carrying on supervision work.

5. *Supervised hatchery*.—One operating under the rules of an official state agency subject to its supervision and inspection. The use of this term is to be limited to those hatcheries having all stock under the supervision of an official state agency.

6. *Supervised chicks*.—Chicks hatched from eggs produced by a supervised flock hatched in a supervised hatchery.

7. *Certified flock*.—One selected, mated, and kept under the rules and specifications of an official state agency and subject to its supervision and inspection and meeting its minimum requirements for this grade. This term shall be used only when all eggs, chicks, or fowls sold for breeding purposes likewise meet the minimum requirements in the state for this grade.

8. *Certified hatchery*.—One operating under the rules of an official state agency and subject to its supervision and inspection. The use of this term shall be limited to those hatcheries having all of their stock under the supervision of an official state agency and meeting minimum requirements for certification in that state.

9. *Certified chicks*.—Chicks hatched from eggs produced by a certified flock and hatched in certified hatcheries. All chicks sold must meet the minimum requirements for this grade in the state.

10. *Pullorum tested flock*.—A flock, in addition to meeting the requirements of an accredited or a supervised flock, which when tested for pullorum disease (bacillary white diarrhea) under the supervision of an official state agency within twelve months immediately preceding the date of sale of hatching eggs or chicks from such flock have had all indicated carriers of the pullorum disease removed upon completion of the test.

11. *Pullorum-tested hatchery*.—An accredited or supervised hatchery operating under the supervision of an official State agency and hatching only eggs from pullorum-tested flocks.

12. *Pullorum-tested chicks*.—Chicks hatched from eggs produced by pullorum-tested flocks and hatched in pullorum-tested hatcheries.

13. *Pullorum-accredited flock*.—A flock, in addition to meeting the requirements of an accredited or a supervised flock, which when tested for pullorum disease (bacillary white diarrhea) under the supervision of an official state agency contains no reactors in two consecutive tests not less than six months apart, the last test being made within the testing year immediately preceding date of sale.

A flock, developed exclusively from purchased hatching eggs produced by a pullorum-accredited flock and hatched in a pullorum-accredited hatchery, may be recognized as a pullorum-accredited flock on one annual test conducted under the supervision of an official state agency if no reactors are found.

A flock, developed exclusively from purchased chicks or breeding stock produced by a pullorum-accredited flock, may be recognized as pullorum-accredited on one annual test conducted under the supervision of an official state agency if no reactors are found.

14. *Pullorum accredited hatchery*.—An accredited or a supervised hatchery operating under the rules of an official state agency and hatching only eggs from pullorum-accredited flocks.

15. *Pullorum-accredited chicks*.—Chicks hatched from eggs produced by pullorum-accredited flocks and hatched in pullorum-accredited hatcheries.

16. *Official state agency*.—An official state agency is an agency such as the State Department of Agriculture, agricultural college or experiment station, poultry improvement association, or other body recognized officially by the State government.

17. *Ancestry*.—Ancestry, when used in reference to egg records refers to the record of the dam and the sire's dam and not alone to some remote ancestor.

18. *Assorted chicks*.—Chicks of no particular breed.

19. *Baby chicks*.—Chicks before they have been fed or the sexes separated.

20. *Baby cockerels*.—Male baby chicks.

21. *Baby ducklings*.—Ducklings before they have been fed or the sexes separated.

22. *Baby pullets*.—Female baby chicks.

23. *Blood tested*.—All advertising mentioning "blood test" or "blood tested" shall specify: (a) Disease tested for, (b) by what method tested.

24. *Bred from*.—Refers to the immediate parents, i.e., bred from 300-egg layers means that the dam or sire's dam were such 300-egg layers.

25. *Breeder hatchery*.—A hatchery operated on a breeding farm hatching for sale chicks from eggs produced on that farm only.

26. *Blood line*.—Family lines within a strain as a result of line breeding. Distinctive family lines may be known as "blood lines."

27. *Breed*.—A race of fowls that conform to certain definite characteristics.

28. *Breeding farm*.—A farm on which is carried on the propagation of fowls according to a definite plan in order to accentuate certain characteristics not common to all fowls of the variety.

29. *Chicks from trapnested stock*.—All chicks represented to be from trapnested stock must be produced by dams that have been trapnested for a period of at least 51 consecutive weeks, and it is understood that the sires of such chicks must be individually pedigreed.

30. *Commercial hatchery*.—A hatchery where eggs are incubated from flocks owned by others than the owner of the incubating equipment.

31. *Contest*.—Same as egg-laying contest.

32. *Contest record*.—See egg-laying contest records.

33. *Culled*.—Each bird in all flocks individually handled and the undesirable ones removed.

34. *Crossbred*.—Birds resulting from matings of different breeds or varieties.

35. *Disease free*.—It is impossible to determine that fowls or chicks are free from all diseases. The use of the term "Disease Free" is prohibited.

36. *Disease resistant*.—When disease resistance is mentioned, the specific disease for which resistance is claimed should be mentioned.

37. *Disease prevention processes*.—Chicks that have been sprayed, fumigated, gassed, or otherwise processed, shall not be advertised as treated for disease.

38. *Egg-laying contest*.—Only officially conducted egg-laying contests are recognized, i.e., contests that are supervised, managed, and conducted by and under a recognized State or Federal authority. Such authority may be either an agricultural experiment station, State agricultural college or university, or a Federal or State department of agriculture.

39. *Egg-laying contest record (official)*.—A trapnest record made at an official egg-laying contest, during the period of time which has been designated in its rules and regulations as an official duration of said contest.

40. *Flock average*.—It is misleading and unethical to advertise egg records of a few individual birds and represent this as the average of the entire flock.

41. *Guarantee*.—To promise or warrant the performance of and to secure against loss or damage by reason of failure. Chick guarantees should be

specific and state what is guaranteed. A general statement that chicks are guaranteed, without stating details is prohibited.

42. *Guaranteed egg production.*—Because of the uncertainty involved from the standpoint of both breeding and care, guarantees of egg production in the pullets reared from chicks furnished are misleading. Guarantees of this type are unethical.

43. *Guaranteed to live.*—All such guarantees are unethical because it is impossible to guarantee chicks to live.

44. *Guaranteed safe delivery, 100% live arrivals, etc.*—Means the shipper guarantees 100% live chicks with the understanding that dead ones will be replaced free of charge or the money refunded for those dead on arrival.

45. *Hogan tested.*—This test has been definitely demonstrated by many authorities as of questionable value, and, since persons unfamiliar with it may attach to it value that it does not possess, the use of this term is misleading and is discouraged.

46. *Hatcheries.*—A place where eggs are incubated for use other than by the owner of the incubation equipment. Brokers and others who do not actually hatch at least 51% of all the chicks they sell are not to designate their business by the term "hatchery."

47. *Leg banded.*—Each bird in all flocks leg banded with some type of sealed leg band.

48. *Line bred.*—Birds in which a given ancestor appears repeatedly in different generations of the pedigree resulting in a predominating hereditary influence from this individual.

49. *Mixed chicks.*—Chicks of no particular breed.

50. *Our own flock or flocks.*—A flock or flocks owned by the user of the term.

51. *Production.*—The use of such terms as "high" production or "heavy" production in advertising shall always be qualified with a definite statement of the quality of production meant.

52. *Pedigree.*—The indiscriminate use of the word "pedigree" without definite qualifications as to what is meant is prohibited.

53. *Pedigreed chicks.*—Chicks concerning which the exact and precise parentage of each chick and egg records of all female ancestors for at least two generations are known. Pedigreed chicks must be individually pedigreed.

54. *Pen pedigreed.*—Exact individual parentage not known but from females in a certain pen, the egg records of which are made known, mated to males that are individually pedigreed.

55. *Pedigreed male matings.*—All males used to sire chicks of this grade must be individually pedigreed.

56. *Record of performance.*—A term used in connection with official supervision by some recognized state agency of trapnesting and breeding fowls according to the uniform rules and regulations of the United States Record of Performance Federation, or the rules of an official state agency.

57. *R.O.P. pedigreed.*—Individually pedigreed from matings of approved R.O.P. males and approved R.O.P. females.

58. *Strain.*—Birds from common lineage or certain lines of breeding in reference to their origin. This term should be used to designate the families of fowl developed by certain breeders. All reference to egg production strains, such as 250-egg strains, 300-egg strains, etc., is prohibited.

59. *Standard bred.*—Birds bred according to the American Standard of Perfection and meeting the requirements of the respective breed and variety given in the Standard of Perfection.

60. *Started chicks.*—Chicks that have been fed and/or watered.

61. *Sex linked.*—Hybrid chicks in which the sexes may be separated at the time of hatching by means of external characteristics.

62. *Turkey poults.*—Baby turkeys before they have been fed or the sexes separated.

63. *Year trapnest record.*—Egg record during 365 days following the beginning of egg production.

